
A BILL FOR AN ACT

RELATING TO TAXATION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that article X,
2 section 1, of the Constitution of the State of Hawaii requires
3 the State to provide a system of public education. Compared to
4 other states, Hawaii is unique because the State, rather than a
5 county or local level jurisdiction, is responsible for public
6 education. As a result, funding for public education in Hawaii
7 is primarily sourced from the general fund of the State.
8 However, maintaining adequate levels of funding for public
9 education has been a persistent issue due to other problems
10 facing the State and general fund use. The State's growing
11 aging population has greatly increased the demand for medical
12 and long-term care services and the rise in homelessness over
13 the past decade has tested the State's ability to provide both
14 emergency housing and affordable housing.

15 The legislature further finds that the department of
16 education has experienced an increase in demands. The United
17 States Department of Education considers over seventy per cent
18 of Hawaii's public schools to be title I schools and a majority



1 of public school students are considered "high-needs" students,
2 meaning the student qualifies for free or reduced price lunch,
3 is an English language learner, or a special education student.
4 School facilities are aging infrastructures and there is a
5 persistent backlog of necessary repair and maintenance work. In
6 addition, after adjusting for the high cost of living in Hawaii,
7 teachers are faced with the lowest pay in the United States.

8 The legislature additionally finds that there have been
9 numerous policies aimed at improving student outcomes and
10 funding the department of education. In 2004, the
11 responsibility for maintaining school facilities was transferred
12 from the department of accounting and general services to the
13 department of education and the weighted student formula was
14 established as the primary method of allocating money to
15 schools. These changes resulted in a decrease in the department
16 of education's repair and maintenance backlog and provided
17 school principals with greater authority to make decisions about
18 curriculum that is appropriate for their school. In 2010, a
19 minimum amount of instructional time was required to be provided
20 to students to ensure that students are able to receive the
21 education they need. That same year, article X of the



1 Constitution of the State of Hawaii was amended to require board
2 of education members to be appointed by the governor rather than
3 elected, clarifying who has ultimate responsibility for
4 overseeing the department of education. Most recently, in 2015,
5 a public prekindergarten program was established to improve the
6 State's educational outcomes as early as possible and build a
7 solid foundation for learning.

8 The legislature also finds that fiscal policy remains the
9 single biggest constraint on improving public education. It is
10 necessary to increase the general excise tax and use tax, the
11 primary sources of revenue for the state general fund, in order
12 to ensure that the State will continue to be able to provide a
13 public education that can adequately prepare the children of
14 Hawaii for the future. It is the intent of the legislature that
15 the additional revenue generated from this tax increase will be
16 used to meet the various needs of the department of education,
17 including but not limited to the reduction in the backlog of
18 facility repair and maintenance, providing air conditioning in
19 overheated classrooms, and expanding the public prekindergarten
20 program. Other legislation relating to vocational education,
21 air conditioning in classrooms, and public prekindergarten



1 availability have been introduced alongside this Act in the 2016
2 regular session and it is the legislature's intent that such
3 legislation be funded by this tax increase.

4 The purpose of this Act is to raise the general excise tax
5 and use tax rate by one per cent and deposit all additional
6 revenue collected from the general excise tax and use tax
7 increase into a special account in the general fund for
8 department of education operations, including salaries and
9 maintenance costs.

10 SECTION 2. Section 237-13, Hawaii Revised Statutes, is
11 amended to read as follows:

12 "§237-13 Imposition of tax. There is hereby levied and
13 shall be assessed and collected annually privilege taxes against
14 persons on account of their business and other activities in the
15 State measured by the application of rates against values of
16 products, gross proceeds of sales, or gross income, whichever is
17 specified, as follows:

18 (1) Tax on manufacturers.

19 (A) Upon every person engaging or continuing within
20 the State in the business of manufacturing,
21 including compounding, canning, preserving,



1 packing, printing, publishing, milling,
2 processing, refining, or preparing for sale,
3 profit, or commercial use, either directly or
4 through the activity of others, in whole or in
5 part, any article or articles, substance or
6 substances, commodity or commodities, the amount
7 of the tax to be equal to the value of the
8 articles, substances, or commodities,
9 manufactured, compounded, canned, preserved,
10 packed, printed, milled, processed, refined, or
11 prepared for sale, as shown by the gross proceeds
12 derived from the sale thereof by the manufacturer
13 or person compounding, preparing, or printing
14 them, multiplied by one-half of one per cent.

15 (B) The measure of the tax on manufacturers is the
16 value of the entire product for sale, regardless
17 of the place of sale or the fact that deliveries
18 may be made to points outside the State.

19 (C) If any person liable for the tax on manufacturers
20 ships or transports the person's product, or any
21 part thereof, out of the State, whether in a



1 finished or unfinished condition, or sells the
2 same for delivery to points outside the State
3 (for example, consigned to a mainland purchaser
4 via common carrier f.o.b. Honolulu), the value of
5 the products in the condition or form in which
6 they exist immediately before entering interstate
7 or foreign commerce, determined as hereinafter
8 provided, shall be the basis for the assessment
9 of the tax imposed by this paragraph. This tax
10 shall be due and payable as of the date of entry
11 of the products into interstate or foreign
12 commerce, whether the products are then sold or
13 not. The department shall determine the basis
14 for assessment, as provided by this paragraph, as
15 follows:

- 16 (i) If the products at the time of their entry
17 into interstate or foreign commerce already
18 have been sold, the gross proceeds of sale,
19 less the transportation expenses, if any,
20 incurred in realizing the gross proceeds for
21 transportation from the time of entry of the



1 products into interstate or foreign
2 commerce, including insurance and storage in
3 transit, shall be the measure of the value
4 of the products;

5 (ii) If the products have not been sold at the
6 time of their entry into interstate or
7 foreign commerce, and in cases governed by
8 clause (i) in which the products are sold
9 under circumstances such that the gross
10 proceeds of sale are not indicative of the
11 true value of the products, the value of the
12 products constituting the basis for
13 assessment shall correspond as nearly as
14 possible to the gross proceeds of sales for
15 delivery outside the State, adjusted as
16 provided in clause (i), or if sufficient
17 data are not available, sales in the State,
18 of similar products of like quality and
19 character and in similar quantities, made by
20 the taxpayer (unless not indicative of the
21 true value) or by others. Sales outside the



1 State, adjusted as provided in clause (i),
2 may be considered when they constitute the
3 best available data. The department shall
4 prescribe uniform and equitable rules for
5 ascertaining the values;

6 (iii) At the election of the taxpayer and with the
7 approval of the department, the taxpayer may
8 make the taxpayer's returns under clause (i)
9 even though the products have not been sold
10 at the time of their entry into interstate
11 or foreign commerce; and

12 (iv) In all cases in which products leave the
13 State in an unfinished condition, the basis
14 for assessment shall be adjusted so as to
15 deduct the portion of the value as is
16 attributable to the finishing of the goods
17 outside the State.

18 (2) Tax on business of selling tangible personal property;
19 producing.

20 (A) Upon every person engaging or continuing in the
21 business of selling any tangible personal



1 property whatsoever (not including, however,
2 bonds or other evidence of indebtedness, or
3 stocks), there is likewise hereby levied, and
4 shall be assessed and collected, a tax equivalent
5 to [~~four~~] five per cent of the gross proceeds of
6 sales of the business; provided that, in the case
7 of a wholesaler, the tax shall be equal to one-
8 half of one per cent of the gross proceeds of
9 sales of the business; and provided further that
10 insofar as the sale of tangible personal property
11 is a wholesale sale under section 237-4(a)(8),
12 the tax shall be one-half of one per cent of the
13 gross proceeds. Upon every person engaging or
14 continuing within this State in the business of a
15 producer, the tax shall be equal to one-half of
16 one per cent of the gross proceeds of sales of
17 the business, or the value of the products, for
18 sale, if sold for delivery outside the State or
19 shipped or transported out of the State, and the
20 value of the products shall be determined in the



1 same manner as the value of manufactured products
2 covered in the cases under paragraph (1) (C).

3 (B) Gross proceeds of sales of tangible property in
4 interstate and foreign commerce shall constitute
5 a part of the measure of the tax imposed on
6 persons in the business of selling tangible
7 personal property, to the extent, under the
8 conditions, and in accordance with the provisions
9 of the Constitution of the United States and the
10 Acts of the Congress of the United States which
11 may be now in force or may be hereafter adopted,
12 and whenever there occurs in the State an
13 activity to which, under the Constitution and
14 Acts of Congress, there may be attributed gross
15 proceeds of sales, the gross proceeds shall be so
16 attributed.

17 (C) No manufacturer or producer, engaged in such
18 business in the State and selling the
19 manufacturer's or producer's products for
20 delivery outside of the State (for example,
21 consigned to a mainland purchaser via common



1 carrier f.o.b. Honolulu), shall be required to
2 pay the tax imposed in this chapter for the
3 privilege of so selling the products, and the
4 value or gross proceeds of sales of the products
5 shall be included only in determining the measure
6 of the tax imposed upon the manufacturer or
7 producer.

8 (D) When a manufacturer or producer, engaged in such
9 business in the State, also is engaged in selling
10 the manufacturer's or producer's products in the
11 State at wholesale, retail, or in any other
12 manner, the tax for the privilege of engaging in
13 the business of selling the products in the State
14 shall apply to the manufacturer or producer as
15 well as the tax for the privilege of
16 manufacturing or producing in the State, and the
17 manufacturer or producer shall make the returns
18 of the gross proceeds of the wholesale, retail,
19 or other sales required for the privilege of
20 selling in the State, as well as making the
21 returns of the value or gross proceeds of sales



1 of the products required for the privilege of
2 manufacturing or producing in the State. The
3 manufacturer or producer shall pay the tax
4 imposed in this chapter for the privilege of
5 selling its products in the State, and the value
6 or gross proceeds of sales of the products, thus
7 subjected to tax, may be deducted insofar as
8 duplicated as to the same products by the measure
9 of the tax upon the manufacturer or producer for
10 the privilege of manufacturing or producing in
11 the State; provided that no producer of
12 agricultural products who sells the products to a
13 purchaser who will process the products outside
14 the State shall be required to pay the tax
15 imposed in this chapter for the privilege of
16 producing or selling those products.

17 (E) A taxpayer selling to a federal cost-plus
18 contractor may make the election provided for by
19 paragraph (3) (C), and in that case the tax shall
20 be computed pursuant to the election,



- 1 notwithstanding this paragraph or paragraph (1)
2 to the contrary.
- 3 (F) The department, by rule, may require that a
4 seller take from the purchaser of tangible
5 personal property a certificate, in a form
6 prescribed by the department, certifying that the
7 sale is a sale at wholesale; provided that:
- 8 (i) Any purchaser who furnishes a certificate
9 shall be obligated to pay to the seller,
10 upon demand, the amount of the additional
11 tax that is imposed upon the seller whenever
12 the sale in fact is not at wholesale; and
- 13 (ii) The absence of a certificate in itself shall
14 give rise to the presumption that the sale
15 is not at wholesale unless the sales of the
16 business are exclusively at wholesale.
- 17 (3) Tax upon contractors.
- 18 (A) Upon every person engaging or continuing within
19 the State in the business of contracting, the tax
20 shall be equal to [~~four~~] five per cent of the
21 gross income of the business.



1 (B) In computing the tax levied under this paragraph,
2 there shall be deducted from the gross income of
3 the taxpayer so much thereof as has been included
4 in the measure of the tax levied under
5 subparagraph (A), on:

6 (i) Another taxpayer who is a contractor, as
7 defined in section 237-6;

8 (ii) A specialty contractor, duly licensed by the
9 department of commerce and consumer affairs
10 pursuant to section 444-9, in respect of the
11 specialty contractor's business; or

12 (iii) A specialty contractor who is not licensed
13 by the department of commerce and consumer
14 affairs pursuant to section 444-9, but who
15 performs contracting activities on federal
16 military installations and nowhere else in
17 this State;

18 provided that any person claiming a deduction
19 under this paragraph shall be required to show in
20 the person's return the name and general excise



1 number of the person paying the tax on the amount
2 deducted by the person.

3 (C) In computing the tax levied under this paragraph
4 against any federal cost-plus contractor, there
5 shall be excluded from the gross income of the
6 contractor so much thereof as fulfills the
7 following requirements:

8 (i) The gross income exempted shall constitute
9 reimbursement of costs incurred for
10 materials, plant, or equipment purchased
11 from a taxpayer licensed under this chapter,
12 not exceeding the gross proceeds of sale of
13 the taxpayer on account of the transaction;
14 and

15 (ii) The taxpayer making the sale shall have
16 certified to the department that the
17 taxpayer is taxable with respect to the
18 gross proceeds of the sale, and that the
19 taxpayer elects to have the tax on gross
20 income computed the same as upon a sale to
21 the state government.



1 (D) A person who, as a business or as a part of a
2 business in which the person is engaged, erects,
3 constructs, or improves any building or
4 structure, of any kind or description, or makes,
5 constructs, or improves any road, street,
6 sidewalk, sewer, or water system, or other
7 improvements on land held by the person (whether
8 held as a leasehold, fee simple, or otherwise),
9 upon the sale or other disposition of the land or
10 improvements, even if the work was not done
11 pursuant to a contract, shall be liable to the
12 same tax as if engaged in the business of
13 contracting, unless the person shows that at the
14 time the person was engaged in making the
15 improvements the person intended, and for the
16 period of at least one year after completion of
17 the building, structure, or other improvements
18 the person continued to intend to hold and not
19 sell or otherwise dispose of the land or
20 improvements. The tax in respect of the
21 improvements shall be measured by the amount of



1 the proceeds of the sale or other disposition
2 that is attributable to the erection,
3 construction, or improvement of such building or
4 structure, or the making, constructing, or
5 improving of the road, street, sidewalk, sewer,
6 or water system, or other improvements. The
7 measure of tax in respect of the improvements
8 shall not exceed the amount which would have been
9 taxable had the work been performed by another,
10 subject as in other cases to the deductions
11 allowed by subparagraph (B). Upon the election
12 of the taxpayer, this paragraph may be applied
13 notwithstanding that the improvements were not
14 made by the taxpayer, or were not made as a
15 business or as a part of a business, or were made
16 with the intention of holding the same. However,
17 this paragraph shall not apply in respect of any
18 proceeds that constitute or are in the nature of
19 rent; all such gross income shall be taxable
20 under paragraph (9); provided that insofar as the
21 business of renting or leasing real property



1 under a lease is taxed under section 237-16.5,
2 the tax shall be levied by section 237-16.5.

3 (4) Tax upon theaters, amusements, radio broadcasting
4 stations, etc.

5 (A) Upon every person engaging or continuing within
6 the State in the business of operating a theater,
7 opera house, moving picture show, vaudeville,
8 amusement park, dance hall, skating rink, radio
9 broadcasting station, or any other place at which
10 amusements are offered to the public, the tax
11 shall be equal to [~~four~~] five per cent of the
12 gross income of the business, and in the case of
13 a sale of an amusement at wholesale under section
14 237-4(a)(13), the tax shall be one-half of one
15 per cent of the gross income.

16 (B) The department may require that the person
17 rendering an amusement at wholesale take from the
18 licensed seller a certificate, in a form
19 prescribed by the department, certifying that the
20 sale is a sale at wholesale; provided that:



- 1 (i) Any licensed seller who furnishes a
2 certificate shall be obligated to pay to the
3 person rendering the amusement, upon demand,
4 the amount of additional tax that is imposed
5 upon the seller whenever the sale is not at
6 wholesale; and
- 7 (ii) The absence of a certificate in itself shall
8 give rise to the presumption that the sale
9 is not at wholesale unless the person
10 rendering the sale is exclusively rendering
11 the amusement at wholesale.
- 12 (5) Tax upon sales representatives, etc. Upon every
13 person classified as a representative or purchasing
14 agent under section 237-1, engaging or continuing
15 within the State in the business of performing
16 services for another, other than as an employee, there
17 is likewise hereby levied and shall be assessed and
18 collected a tax equal to [~~four~~] five per cent of the
19 commissions and other compensation attributable to the
20 services so rendered by the person.
- 21 (6) Tax on service business.



- 1 (A) Upon every person engaging or continuing within
2 the State in any service business or calling
3 including professional services not otherwise
4 specifically taxed under this chapter, there is
5 likewise hereby levied and shall be assessed and
6 collected a tax equal to [~~four~~] five per cent of
7 the gross income of the business, and in the case
8 of a wholesaler under section 237-4(a)(10), the
9 tax shall be equal to one-half of one per cent of
10 the gross income of the business.
- 11 (B) The department may require that the person
12 rendering a service at wholesale take from the
13 licensed seller a certificate, in a form
14 prescribed by the department, certifying that the
15 sale is a sale at wholesale; provided that:
- 16 (i) Any licensed seller who furnishes a
17 certificate shall be obligated to pay to the
18 person rendering the service, upon demand,
19 the amount of additional tax that is imposed
20 upon the seller whenever the sale is not at
21 wholesale; and



1 (ii) The absence of a certificate in itself shall
2 give rise to the presumption that the sale
3 is not at wholesale unless the person
4 rendering the sale is exclusively rendering
5 services at wholesale.

6 (C) Where any person is engaged in the business of
7 selling interstate or foreign common carrier
8 telecommunication services within and without the
9 State, other than as a home service provider, the
10 tax shall be imposed on that portion of gross
11 income received by a person from service which is
12 originated or terminated in this State and is
13 charged to a telephone number, customer, or
14 account in this State notwithstanding any other
15 state law (except for the exemption under section
16 237-23(a)(1)) to the contrary. If, under the
17 Constitution and laws of the United States, the
18 entire gross income as determined under this
19 paragraph of a business selling interstate or
20 foreign common carrier telecommunication services
21 cannot be included in the measure of the tax, the



1 gross income shall be apportioned as provided in
2 section 237-21; provided that the apportionment
3 factor and formula shall be the same for all
4 persons providing those services in the State.

5 (D) Where any person is engaged in the business of a
6 home service provider, the tax shall be imposed
7 on the gross income received or derived from
8 providing interstate or foreign mobile
9 telecommunications services to a customer with a
10 place of primary use in this State when such
11 services originate in one state and terminate in
12 another state, territory, or foreign country;
13 provided that all charges for mobile
14 telecommunications services which are billed by
15 or for the home service provider are deemed to be
16 provided by the home service provider at the
17 customer's place of primary use, regardless of
18 where the mobile telecommunications originate,
19 terminate, or pass through; provided further that
20 the income from charges specifically derived from
21 interstate or foreign mobile telecommunications



1 services, as determined by books and records that
2 are kept in the regular course of business by the
3 home service provider in accordance with section
4 239-24, shall be apportioned under any
5 apportionment factor or formula adopted under
6 subparagraph (C). Gross income shall not
7 include:

8 (i) Gross receipts from mobile
9 telecommunications services provided to a
10 customer with a place of primary use outside
11 this State;

12 (ii) Gross receipts from mobile
13 telecommunications services that are subject
14 to the tax imposed by chapter 239;

15 (iii) Gross receipts from mobile
16 telecommunications services taxed under
17 section 237-13.8; and

18 (iv) Gross receipts of a home service provider
19 acting as a serving carrier providing mobile
20 telecommunications services to another home
21 service provider's customer.



1 For the purposes of this paragraph, "charges for
2 mobile telecommunications services", "customer",
3 "home service provider", "mobile
4 telecommunications services", "place of primary
5 use", and "serving carrier" have the same meaning
6 as in section 239-22.

7 (7) Tax on insurance producers. Upon every person engaged
8 as a licensed producer pursuant to chapter 431, there
9 is hereby levied and shall be assessed and collected a
10 tax equal to 0.15 per cent of the commissions due to
11 that activity.

12 (8) Tax on receipts of sugar benefit payments. Upon the
13 amounts received from the United States government by
14 any producer of sugar (or the producer's legal
15 representative or heirs), as defined under and by
16 virtue of the Sugar Act of 1948, as amended, or other
17 Acts of the Congress of the United States relating
18 thereto, there is hereby levied a tax of one-half of
19 one per cent of the gross amount received; provided
20 that the tax levied hereunder on any amount so
21 received and actually disbursed to another by a



1 producer in the form of a benefit payment shall be
2 paid by the person or persons to whom the amount is
3 actually disbursed, and the producer actually making a
4 benefit payment to another shall be entitled to claim
5 on the producer's return a deduction from the gross
6 amount taxable hereunder in the sum of the amount so
7 disbursed. The amounts taxed under this paragraph
8 shall not be taxable under any other paragraph,
9 subsection, or section of this chapter.

10 (9) Tax on other business. Upon every person* engaging or
11 continuing within the State in any business, trade,
12 activity, occupation, or calling not included in the
13 preceding paragraphs or any other provisions of this
14 chapter, there is likewise hereby levied and shall be
15 assessed and collected, a tax equal to [~~four~~] five per
16 cent of the gross income thereof. In addition, the
17 rate prescribed by this paragraph shall apply to a
18 business taxable under one or more of the preceding
19 paragraphs or other provisions of this chapter, as to
20 any gross income thereof not taxed thereunder as gross
21 income or gross proceeds of sales or by taxing an



1 equivalent value of products, unless specifically
2 exempted."

3 SECTION 3. Section 237-15, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "**§237-15 Technicians.** When technicians supply dentists or
6 physicians with dentures, orthodontic devices, braces, and
7 similar items which have been prepared by the technician in
8 accordance with specifications furnished by the dentist or
9 physician, and such items are to be used by the dentist or
10 physician in the dentist's or physician's professional practice
11 for a particular patient who is to pay the dentist or physician
12 for the same as a part of the dentist's or physician's
13 professional services, the technician shall be taxed as though
14 the technician were a manufacturer selling a product to a
15 licensed retailer, rather than at the rate of [~~four~~] five per
16 cent which is generally applied to professions and services."

17 SECTION 4. Section 237-16.5, Hawaii Revised Statutes, is
18 amended as follows:

19 1. By amending subsection (a) to read:

20 "(a) This section relates to the leasing of real property
21 by a lessor to a lessee. There is hereby levied, and shall be



1 assessed and collected annually, a privilege tax against persons
2 engaging or continuing within the State in the business of
3 leasing real property to another, equal to [~~four~~] five per cent
4 of the gross proceeds or gross income received or derived from
5 the leasing; provided that where real property is subleased by a
6 lessee to a sublessee, the lessee, as provided in this section,
7 shall be allowed a deduction from the amount of gross proceeds
8 or gross income received from its sublease of the real property.
9 The deduction shall be in the amount allowed under this section.

10 All deductions under this section and the name and general
11 excise tax number of the lessee's lessor shall be reported on
12 the general excise tax return. Any deduction allowed under this
13 section shall only be allowed with respect to leases and
14 subleases in writing and relating to the same real property."

15 2. By amending subsection (f) to read:

16 "(f) This section shall not cause the tax upon a lessor,
17 with respect to any item of the lessor's gross proceeds or gross
18 income, to exceed [~~four~~] five per cent."

19 SECTION 5. Section 237-18, Hawaii Revised Statutes, is
20 amended by amending subsection (f) to read as follows:



1 "(f) Where tourism related services are furnished through
2 arrangements made by a travel agency or tour packager and the
3 gross income is divided between the provider of the services and
4 the travel agency or tour packager, the tax imposed by this
5 chapter shall apply to each such person with respect to such
6 person's respective portion of the proceeds, and no more.

7 As used in this subsection "tourism related services" means
8 catamaran cruises, canoe rides, dinner cruises, lei greetings,
9 transportation included in a tour package, sightseeing tours not
10 subject to chapter 239, admissions to luaus, dinner shows,
11 extravaganzas, cultural and educational facilities, and other
12 services rendered directly to the customer or tourist, but only
13 if the providers of the services other than air transportation
14 are subject to a [~~four~~] five per cent tax under this chapter or
15 chapter 239."

16 SECTION 6. Section 237-31, Hawaii Revised Statutes, is
17 amended to read as follows:

18 "§237-31 Remittances. (a) All remittances of taxes
19 imposed by this chapter shall be made by money, bank draft,
20 check, cashier's check, money order, or certificate of deposit



1 to the office of the department of taxation to which the return
2 was transmitted.

3 (b) The department shall issue its receipts therefor to
4 the taxpayer and shall pay the moneys into the state treasury as
5 a state realization, to be kept and accounted for as provided by
6 law; provided that:

- 7 (1) A sum, not to exceed \$5,000,000, from all general
8 excise tax revenues realized by the State shall be
9 deposited in the state treasury in each fiscal year to
10 the credit of the compound interest bond reserve fund;
- 11 (2) A sum from all general excise tax revenues realized by
12 the State that is equal to one-half of the total
13 amount of funds appropriated or transferred out of the
14 hurricane reserve trust fund under sections 4 and 5 of
15 Act 62, Session Laws of Hawaii 2011, shall be
16 deposited into the hurricane reserve trust fund in
17 fiscal year 2013-2014 and in fiscal year 2014-2015;
18 provided that the deposit required in each fiscal year
19 shall be made by October 1 of that fiscal year; and
- 20 ~~+~~ (3) ~~+~~ Commencing with fiscal year 2018-2019, a sum from all
21 general excise tax revenues realized by the State that



1 represents the difference between the state public
2 employer's annual required contribution for the
3 separate trust fund established under section 87A-42
4 and the amount of the state public employer's
5 contributions into that trust fund shall be deposited
6 to the credit of the State's annual required
7 contribution into that trust fund in each fiscal year,
8 as provided in section 87A-42.

9 (c) Beginning on January 1, 2017, twenty per cent of
10 revenues generated by the general excise tax and use tax, after
11 all deductions required by subsection (b), shall be deposited
12 into a special account in the general fund for operations,
13 including salaries and maintenance costs, of the department of
14 education under chapter 302A."

15 SECTION 7. Section 238-2, Hawaii Revised Statutes, is
16 amended to read as follows:

17 "§238-2 Imposition of tax on tangible personal property;
18 exemptions. There is hereby levied an excise tax on the use in
19 this State of tangible personal property which is imported by a
20 taxpayer in this State whether owned, purchased from an
21 unlicensed seller, or however acquired for use in this State.



1 The tax imposed by this chapter shall accrue when the property
2 is acquired by the importer or purchaser and becomes subject to
3 the taxing jurisdiction of the State. The rates of the tax
4 hereby imposed and the exemptions thereof are as follows:

5 (1) If the importer or purchaser is licensed under chapter
6 237 and is:

7 (A) A wholesaler or jobber importing or purchasing
8 for purposes of sale or resale; or

9 (B) A manufacturer importing or purchasing material
10 or commodities which are to be incorporated by
11 the manufacturer into a finished or saleable
12 product (including the container or package in
13 which the product is contained) wherein it will
14 remain in such form as to be perceptible to the
15 senses, and which finished or saleable product is
16 to be sold in such manner as to result in a
17 further tax on the activity of the manufacturer
18 as the manufacturer or as a wholesaler, and not
19 as a retailer,

20 there shall be no tax; provided that if the
21 wholesaler, jobber, or manufacturer is also engaged in



1 business as a retailer (so classed under chapter 237),
2 paragraph (2) shall apply to the wholesaler, jobber,
3 or manufacturer, but the director of taxation shall
4 refund to the wholesaler, jobber, or manufacturer, in
5 the manner provided under section 231-23(c) such
6 amount of tax as the wholesaler, jobber, or
7 manufacturer shall, to the satisfaction of the
8 director, establish to have been paid by the
9 wholesaler, jobber, or manufacturer to the director
10 with respect to property which has been used by the
11 wholesaler, jobber, or manufacturer for the purposes
12 stated in this paragraph;

13 (2) If the importer or purchaser is licensed under chapter
14 237 and is:

15 (A) A retailer or other person importing or
16 purchasing for purposes of sale or resale, not
17 exempted by paragraph (1);

18 (B) A manufacturer importing or purchasing material
19 or commodities which are to be incorporated by
20 the manufacturer into a finished or saleable
21 product (including the container or package in



1 which the product is contained) wherein it will
2 remain in such form as to be perceptible to the
3 senses, and which finished or saleable product is
4 to be sold at retail in this State, in such
5 manner as to result in a further tax on the
6 activity of the manufacturer in selling such
7 products at retail;

8 (C) A contractor importing or purchasing material or
9 commodities which are to be incorporated by the
10 contractor into the finished work or project
11 required by the contract and which will remain in
12 such finished work or project in such form as to
13 be perceptible to the senses;

14 (D) A person engaged in a service business or calling
15 as defined in section 237-7, or a person
16 furnishing transient accommodations subject to
17 the tax imposed by section 237D-2, in which the
18 import or purchase of tangible personal property
19 would have qualified as a sale at wholesale as
20 defined in section 237-4(a)(8) had the seller of



1 the property been subject to the tax in chapter
2 237; or

3 (E) A publisher of magazines or similar printed
4 materials containing advertisements, when the
5 publisher is under contract with the advertisers
6 to distribute a minimum number of magazines or
7 similar printed materials to the public or
8 defined segment of the public, whether or not
9 there is a charge to the persons who actually
10 receive the magazines or similar printed
11 materials,

12 the tax shall be one-half of one per cent of the
13 purchase price of the property, if the purchase and
14 sale are consummated in Hawaii; or, if there is no
15 purchase price applicable thereto, or if the purchase
16 or sale is consummated outside of Hawaii, then one-
17 half of one per cent of the value of such property;
18 and

19 (3) In all other cases, [~~four~~] five per cent of the value
20 of the property.



1 For purposes of this section, tangible personal property is
2 property that is imported by the taxpayer for use in this State,
3 notwithstanding the fact that title to the property, or the risk
4 of loss to the property, passes to the purchaser of the property
5 at a location outside this State. Where plaintiff: (1) caused
6 consumer electronic goods from various mainland vendors to be
7 shipped to Hawaii in order to restock plaintiff's retail stores
8 in this State, constituting importation of goods into the State
9 for purposes of resale; and (2) used the goods in Hawaii by
10 "keeping the property" in this State "for sale", plaintiff was
11 subject to assessment of the use tax under this section."

12 SECTION 8. Section 238-2.3, Hawaii Revised Statutes, is
13 amended to read as follows:

14 "§238-2.3 Imposition of tax on imported services or
15 contracting; exemptions. There is hereby levied an excise tax
16 on the value of services or contracting as defined in section
17 237-6 that are performed by an unlicensed seller at a point
18 outside the State and imported or purchased for use in this
19 State. The tax imposed by this chapter shall accrue when the
20 service or contracting as defined in section 237-6 is received
21 by the importer or purchaser and becomes subject to the taxing



1 jurisdiction of the State. The rates of the tax hereby imposed
2 and the exemptions from the tax are as follows:

3 (1) If the importer or purchaser is licensed under chapter
4 237 and is:

5 (A) Engaged in a service business or calling in which
6 the imported or purchased services or contracting
7 become identifiable elements, excluding overhead,
8 of the services rendered by the importer or
9 purchaser, and the gross income of the importer
10 or purchaser is subject to the tax imposed under
11 chapter 237 on services at the rate of one-half
12 of one per cent;

13 (B) A manufacturer importing or purchasing services
14 or contracting that become identifiable elements,
15 excluding overhead, of a finished or saleable
16 product (including the container or package in
17 which the product is contained) and the finished
18 or saleable product is to be sold in a manner
19 that results in a further tax on the manufacturer
20 as a wholesaler, and not a retailer; or



1 (C) A contractor importing or purchasing contracting
2 that become identifiable elements, excluding
3 overhead, of the finished work or project
4 required under the contract; provided that:

5 (i) The gross proceeds derived by the contractor
6 are subject to the tax under section
7 237-13(3) as a contractor; and

8 (ii) The contractor could have deducted amounts
9 paid to the subcontractor under section
10 237-13(3)(B) if the subcontractor was
11 subject to general excise tax under chapter
12 237;

13 there shall be no tax imposed on the value of the
14 imported or purchased services or contracting;
15 provided that if the manufacturer is also engaged in
16 business as a retailer as classified under chapter
17 237, paragraph (2) shall apply to the manufacturer,
18 but the director of taxation shall refund to the
19 manufacturer, in the manner provided under section
20 231-23(c), that amount of tax that the manufacturer,
21 to the satisfaction of the director, shall establish



1 to have been paid by the manufacturer to the director
2 with respect to services that have been used by the
3 manufacturer for the purposes stated in this
4 paragraph.

5 (2) If the importer or purchaser is a person licensed
6 under chapter 237 and is:

7 (A) Engaged in a service business or calling in which
8 the imported or purchased services or contracting
9 become identifiable elements, excluding overhead,
10 of the services rendered by the importer or
11 purchaser, and the gross income from those
12 services when sold by the importer or purchaser
13 is subject to the tax imposed under chapter 237
14 at the highest rate;

15 (B) A manufacturer importing or purchasing services
16 or contracting that become identifiable elements,
17 excluding overhead, of the finished or saleable
18 manufactured product (including the container or
19 package in which the product is contained) and
20 the finished or saleable product is to be sold in
21 a manner that results in a further tax under



1 chapter 237 on the activity of the manufacturer
2 as a retailer; or
3 (C) A contractor importing or purchasing services
4 that become identifiable elements, excluding
5 overhead, of the finished work or project
6 required, under the contract, and where the gross
7 proceeds derived by the contractor are subject to
8 the tax under section 237-13(3) as a contractor,
9 the tax shall be one-half of one per cent of the value
10 of the imported or purchased services or contracting;
11 and
12 (3) In all other cases, the importer or purchaser is
13 subject to the tax at the rate of [~~four~~] five per cent
14 on the value of the imported or purchased services or
15 contracting."

16 SECTION 9. Statutory material to be repealed is bracketed
17 and stricken. New statutory material is underscored.

18 SECTION 10. This Act shall take effect upon its approval;
19 provided that sections 2 to 5, 7, and 8 shall apply to taxable
20 years beginning after December 31, 2016.

21



Report Title:

General Excise Tax; Use Tax; Department of Education; Special Account

Description:

Increases the general excise tax and use tax from four per cent to five per cent and requires that additional revenue collected from the general excise tax increase be deposited into a special account in the general fund for department of education operations, including salaries and maintenance costs. (SD1)

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

